

HAMPTON VA

MEMORANDUM

To: Mayor and Members of Council

From: Vanessa T. Valldejuli, City Attorney

Re: Annual Budget

Date: March 1, 2017

VTV

Set forth below are the legal requirements of the Hampton City Charter, the Code of Virginia, and the Hampton City Code and appropriate procedures for carrying out the Council's legislative duties pertaining to the adoption of the annual budget.

General Legal Requirements:

The City Charter requires that the City Manager prepare and submit to Council a tentative budget on or before April 15, which shall (at a minimum) (i) describe important features of the budget, (ii) contain certain information related to major changes from current financial and expenditure policies, and (iii) estimate income, indicate the property tax levy, and all proposed expenditures; and must not propose general fund expenditures that exceed the total of estimated general fund income. (Charter, City of Hampton § 6.09.) The City Manager's budget must be in such form that it may become the official budget of the City, as in the event the Council fails to take timely action, the budget, as submitted, shall be deemed to have been adopted by the Council. (Charter, City of Hampton § 6.11).

The following processes occur contemporaneous with the City Manager's preparation of a tentative budget, as follows:

- **Capital Improvement Budget:** Pursuant to Code of Virginia §15.2-2239, the City Council has directed the Planning Commission to prepare and revise annually a capital improvement program which must be submitted to the City manager at such time as she shall direct. The Planning Commission traditionally holds a public hearing for this purpose although such a hearing is not legally required.
- **School Board Budget:** Code of Virginia § 22.1-93 provides, in part, that "notwithstanding any other provision of law . . . the governing body of a county and the governing body of a municipality shall each prepare and approve an annual budget for educational purposes by May 15 or within 30 days of the receipt by the county or municipality of the estimates of state funds, whichever shall later occur." For this purpose, the School Board conducts at least one public hearing, and traditionally finalizes its estimated budget annually no later than March 31.

City Attorney's Office

22 Lincoln Street | Hampton, Virginia 23669
www.hampton.gov | Phone: (757) 727-6127
Fax: (757) 727-6788

The language of Virginia Code § 22.1-93 and City Charter, § 6.11 when read together, as a practical matter, require that the City adopt its budget by May 15. Note, however, that action on the budget by the City Council can take place only after a public hearing has been advertised for at least ten (10) days. (City Charter, § 6.10). Then the budget in its final form must be adopted through an appropriation ordinance approved by at least four (4) affirmative votes of the Council. (City Charter, § 6.11).

The Council is not required to adopt the budget as submitted by the City Manager; however, it is reasonable and practical to start with that budget as a basis for the final budget of the City and that has been the Council practice. In other words, in arriving at Council's official budget for the forthcoming fiscal year, the Council should by motion duly seconded and approved by four (4) affirmative votes, amend the budget as submitted by the City Manager. There is no requirement that the amendments be individually made, except that if a member of Council wishes to oppose a particular amendment, then the amendment should be acted on separately as a matter of good parliamentary procedure. After all amendments to the City Manager's budget have been acted upon, there must be a motion, seconded and approved by four (4) affirmative votes to approve the budget, *as amended*. While this may cause a member of Council to vote for a budget in which there is an item to which he/she is opposed, the Charter is specific in the requirement of final action. Members have the opportunity to state on the record their opposition to any particular item(s). If Council takes no final action on the budget prior to June 2, then the budget, as proposed by the City Manager, becomes the official budget of the City. (Charter, City of Hampton § 6.11).

Often there are questions as to the form in which the Council may adopt the School Board budget. Code of Virginia § 22.1-94 provides that the City Council may adopt in its appropriation ordinance the School Board's budget relating to its "total only or to such major classifications prescribed by the Board of Education pursuant to Virginia Code § 22.1-115." The major classifications are set forth in Code of Virginia § 22.1-115 as follows: (i) instruction, (ii) administration, attendance and health, (iii) pupil transportation, (iv) operation and maintenance, (v) school food services and other noninstructional operations, (vi) facilities, (vii) debt and fund transfers, (viii) technology, and (ix) contingency reserves. The Council may *not* legally adopt the School Board's budget by adding, amending, or deleting specific line items in its budget. It is limited to the two procedures prescribed by statute.

Tax-Related Legal Requirements:

The City Charter requires that Council adopt the annual appropriation ordinance before the annual tax levy is made in addition to the general requirements set forth above. (City Charter, § 6.11). As to changes (increases) in the real estate tax rate and other local tax rates, the Council must first hold a public hearing which must have been advertised in the local newspaper at least seven (7) days before the public hearing at which citizens have an opportunity to be heard on any such proposed tax increase(s). After holding the required public hearing, the City Council may increase any local tax in its discretion. (*See* Virginia Code § 58.1-3007). Note, however, that pursuant to Hampton City Code § 2-50, "no ordinance or resolution . . . imposing taxes shall be passed on the same day of its introduction," which means that all such ordinances must be read before Council twice; the first reading without adoption and without any formal action required.

Tangible personal property taxes are imposed on a calendar year basis. The Commissioner annually delivers the personal property book to the Treasurer no later than April 1st. Thus, the personal property tax rates adopted annually during the budget process actually take effect January 1 of the following calendar year. In setting the rates, note that there are multiple statutorily permissible classifications of tangible personal property. Pursuant to Virginia Code § 58.1-3506, the Council may levy a tax on the property in separate classifications at different rates from the tax levied on other tangible personal property; however, the rates of tax and the rates of assessment shall not exceed those applicable to the general class of tangible personal property. For example, privately owned pleasure boats and watercraft 18 feet and over, used for recreational purposes only, and privately owned pleasure boats and watercraft motorized or nonmotorized, and under 18 feet that are used for recreational purposes only were added two (2) years ago as separate classifications of tangible personal property for which separate rates were imposed. Other separate classifications include, but are not limited to, motor vehicles specially equipped to provide transportation for physically disabled individuals, trailers used for the transportation of horses, and vehicles qualifying under the Personal Property Tax Relief Act. In 2015, the General Assembly added an additional separate classification for miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools or short-term rental property, and that has an original cost of less than \$250.

Real property taxes are imposed on a fiscal year basis. The Assessor delivers the land book to the Treasurer no later than September 1. When any annual assessment of real property results in an increase of 1 percent or more in the total real property tax levied, the City must reduce its rate of levy for the forthcoming tax year so as to cause such rate of levy to produce no more than 101 percent of the previous year's real property tax levies, which rate shall be determined by multiplying the previous year's total real property tax levies by 101 percent and dividing the product by the forthcoming tax year's total real property assessed value. If such a reduced rate must be implemented, the real property tax rate may only be increased above the reduced rate after a public hearing, which shall not be held at the same time as the annual budget hearing. (*See* Code of Virginia §58.1-3321.

Additional Legal Provisions that May Apply:

All levies and fees imposed or increased by the City pursuant to the provisions of Code of Virginia Title 15.2, Chapter 21, dealing with public utilities, sale and lease of public property, franchises, sewage and water, etc. (*see* Virginia Code §§ 15.2-2100 through 15.2-2160), and Chapter 22, dealing with planning, subdivision of land and zoning (*see* Virginia Code §§ 15.2-2200 through 15.2-2329), require a public hearing before adoption. Virginia Code § 15.2-107 sets forth the timing and specific information which must be included in the advertisement. Virginia Code § 15.2-107.1 allows advertisement of public hearings on the City's web site (in addition to traditional notices).

Please let me know if you have any questions regarding this information.

cc: Mary B. Bunting, City Manager
Brian DeProfio, Director of Budget and Strategic Initiatives
Katherine K. Glass, Clerk of Council

Attachment

HAMPTON CITY CHARTER SECTIONS

Sec. 6.09. - Tentative budget.

The city manager shall, on or before April fifteen of each year, prepare and submit to the council a budget. The budget shall serve as a financial plan for the city, and the city manager in the budget message shall describe the important features of the budget, indicate any major changes from the current financial and expenditure policies, and include such other material as the city manager deems desirable or as the council may from time to time require. The budget shall show all estimated income, indicating the property tax levy, and all proposed expenditures, including debt service and capital program, and shall be in a form as the manager deems desirable or the council may require. The total of proposed general fund expenditures shall not exceed the total of estimated general fund income.

Sec. 6.10. - Public hearing; notice; publication.

A brief synopsis of the tentative operating and capital budgets shall be published in a newspaper having a general circulation in the city, and notice given of one or more public hearings, at least ten (10) days prior to the date set for hearing, at which a citizen or property owner of the city shall have the right to attend and state his views thereon. Such hearing may be adjourned from time to time until completed.

Sec. 6.11. - Approval and adoption of budget.

Following such public hearing, and before the annual tax levy is made, the council shall approve its final budget for the next ensuing fiscal year by means of an annual appropriation ordinance.

The budget shall be adopted by the votes of at least a majority of all members of the council. The budget shall be formally adopted not later than the first day of the last month of the fiscal year. Should the council take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the council.

VIRGINIA STATE CODE SECTIONS

§ 15.2-107. Advertisement and enactment of certain fees and levies.

All levies and fees imposed or increased by a locality pursuant to the provisions of Chapters 21 (§ 15.2-2100 et seq.) or 22 (§ 15.2-2200 et seq.) shall be adopted by ordinance. The advertising requirements of subsection F of § 15.2-1427, or § 15.2-2204, as appropriate, shall apply, except as modified in this section.

The advertisement shall include the following:

1. The time, date, and place of the public hearing.
2. The actual dollar amount or percentage change, if any, of the proposed levy, fee or increase.
3. A specific reference to the Code of Virginia section or other legal authority granting the legal authority for enactment of such proposed levy, fee, or increase.

4. A designation of the place or places where the complete ordinance, and information concerning the documentation for the proposed fee, levy or increase are available for examination by the public no later than the time of the first publication.

§ 15.2-107.1. Advertisement of legal notices on web sites.

In addition to any requirements that a locality advertise legal notices in a newspaper having a general circulation in the locality, such notices may also be published on the locality's World Wide Web site.

§ 15.2-2239. Local planning commissions to prepare and submit annually capital improvement programs to governing body or official charged with preparation of budget.

A local planning commission may, and at the direction of the governing body shall, prepare and revise annually a capital improvement program based on the comprehensive plan of the locality for a period not to exceed the ensuing five years. The commission shall submit the program annually to the governing body, or to the chief administrative officer or other official charged with preparation of the budget for the locality, at such time as it or he shall direct. The capital improvement program shall include the commission's recommendations, and estimates of cost of the facilities and life cycle costs, including any road improvement and any transportation improvement the locality chooses to include in its capital improvement plan and as provided for in the comprehensive plan, and the means of financing them, to be undertaken in the ensuing fiscal year and in a period not to exceed the next four years, as the basis of the capital budget for the locality. In the preparation of its capital budget recommendations, the commission shall consult with the chief administrative officer or other executive head of the government of the locality, the heads of departments and interested citizens and organizations and shall hold such public hearings as it deems necessary.

Localities may use value engineering for any capital project. For purposes of this section, "value engineering" has the same meaning as that in § 2.2-1133.

§ 22.1-93. Approval of annual budget for school purposes.

Notwithstanding any other provision of law, including but not limited to Chapter 25 (§ 15.2-2500 et seq.) of Title 15.2, the governing body of a county and the governing body of a municipality shall each prepare and approve an annual budget for educational purposes by May 15 or within 30 days of the receipt by the county or municipality of the estimates of state funds, whichever shall later occur. Upon approval, each local school division shall publish the approved annual budget in line item form, including the estimated required local match, on the division's website, and the document shall also be made available in hard copy as needed to citizens for inspection.

The Superintendent of Public Instruction shall, no later than the fifteenth day following final adjournment of the Virginia General Assembly in each session, submit estimates to be used for budgetary purposes relative to the Basic School Aid Formula to each school division and to the local governing body of each county, city and town that operates a separate school division. Such estimates shall be for each year of the next biennium or for the then next fiscal year.

§ 22.1-94. Appropriations by county, city or town governing body for public schools.

A governing body may make appropriations to a school board from the funds derived from local levies and from any other funds available, for operation, capital outlay and debt service in the public schools.

Such appropriations shall be not less than the cost apportioned to the governing body for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law. The amount appropriated by the governing body for public schools shall relate to its total only or to such major classifications prescribed by the Board of Education pursuant to § 22.1-115. The appropriations may be made on the same periodic basis as the governing body makes appropriations to other departments and agencies.

§ 22.1-115. System of accounting; statements of funds available; classification of expenditures.

The State Board, in conjunction with the Auditor of Public Accounts, shall establish and require of each school division a modern system of accounting for all school funds, state and local, and the treasurer or other fiscal agent of each school division shall render each month to the school board a statement of the funds in his hands available for school purposes. The Board shall prescribe the following major classifications for expenditures of school funds: (i) instruction, (ii) administration, attendance and health, (iii) pupil transportation, (iv) operation and maintenance, (v) school food services and other noninstructional operations, (vi) facilities, (vii) debt and fund transfers, (viii) technology, and (ix) contingency reserves.

§ 58.1-3007. Notice prior to increase of local tax levy; hearing.

Before any local tax levy shall be increased in any county, city, town, or district, such proposed increase shall be published in a newspaper having general circulation in the locality affected at least seven days before the increased levy is made and the citizens of the locality shall be given an opportunity to appear before, and be heard by, the local governing body on the subject of such increase.

§58.1-3321. Effect on rate when assessment results in tax increase; public hearings.

A. When any annual assessment, biennial assessment or general reassessment of real property by a county, city or town would result in an increase of one percent or more in the total real property tax levied, such county, city, or town shall reduce its rate of levy for the forthcoming tax year so as to cause such rate of levy to produce no more than 101 percent of the previous year's real property tax levies, unless subsection B is complied with, which rate shall be determined by multiplying the previous year's total real property tax levies by 101 percent and dividing the product by the forthcoming tax year's total real property assessed value. An additional assessment or reassessment due to the construction of new or other improvements, including those improvements and changes set forth in § 58.1-3285, to the property shall not be an annual assessment or general reassessment within the meaning of this section, nor shall the assessed value of such improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations provided for under this section.

B. The governing body of a county, city, or town may, after conducting a public hearing, which shall not be held at the same time as the annual budget hearing, increase the rate above the reduced rate required in subsection A if any such increase is deemed to be necessary by such governing body.

Notice of the public hearing shall be given at least 30 days before the date of such hearing by the publication of a notice in (i) at least one newspaper of general circulation in such county or city and (ii) a prominent public location at which notices are regularly posted in the building where the governing body of the county, city, or town regularly conducts its business, except that such notice shall be given at least 14 days before the date of such hearing in any year in which neither a general appropriation act nor amendments to a general appropriation act providing appropriations for the immediately following fiscal year have been enacted by April 30 of such year. Any such notice shall be at least the size of one-eighth page of a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a

type no smaller than 18-point. The notice described in clause (i) shall not be placed in that portion, if any, of the newspaper reserved for legal notices and classified advertisements. The notice described in clauses (i) and (ii) shall be in the following form and contain the following information, in addition to such other information as the local governing body may elect to include:

NOTICE OF PROPOSED REAL PROPERTY TAX INCREASE

The (name of the county, city or town) proposes to increase property tax levies.

1. Assessment Increase: Total assessed value of real property, excluding additional assessments due to new construction or improvements to property, exceeds last year's total assessed value of real property by _____ percent.

2. Lowered Rate Necessary to Offset Increased Assessment: The tax rate which would levy the same amount of real estate tax as last year, when multiplied by the new total assessed value of real estate with the exclusions mentioned above, would be \$_____ per \$100 of assessed value. This rate will be known as the "lowered tax rate."

3. Effective Rate Increase: The (name of the county, city or town) proposes to adopt a tax rate of \$_____ per \$100 of assessed value. The difference between the lowered tax rate and the proposed rate would be \$_____ per \$100, or _____ percent. This difference will be known as the "effective tax rate increase."

Individual property taxes may, however, increase at a percentage greater than or less than the above percentage.

4. Proposed Total Budget Increase: Based on the proposed real property tax rate and changes in other revenues, the total budget of (name of county, city or town) will exceed last year's by _____ percent.

A public hearing on the increase will be held on (date and time) at (meeting place).

C. All hearings shall be open to the public. The governing body shall permit persons desiring to be heard an opportunity to present oral testimony within such reasonable time limits as shall be determined by the governing body.

D. The provisions of this section shall not be applicable to the assessment of public service corporation property by the State Corporation Commission.

E. Notwithstanding other provisions of general or special law, the tax rate for taxes due on or before June 30 of each year, may be fixed on or before May 15 of that tax year.

§ 58.1-3506. Other classifications of tangible personal property for taxation.

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1.
 - a. Boats or watercraft weighing five tons or more, not used solely for business purposes;
 - b. Boats or watercraft weighing less than five tons, not used solely for business purposes;
2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission or the Civil Aeronautics Board;
3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, but not including any aircraft described in subdivision 4;
4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such

flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;

5. All other aircraft not included in subdivisions A 2, A 3, or A 4 and flight simulators;

6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation purposes as provided in subsection C of § 46.2-730;

7. Tangible personal property used in a research and development business;

8. Heavy construction machinery not used for business purposes, including land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment and ditch and other types of diggers;

9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any other alternative energy source for use in manufacturing and any cogeneration equipment purchased to achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment shall include, without limitation, such equipment purchased by firms engaged in the business of generating electricity or steam, or both;

10. Vehicles without motive power, used or designed to be used as manufactured homes as defined in § 36-85.3;

11. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;

12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;

13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons, including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

14. Motor vehicles specially equipped to provide transportation for physically handicapped individuals;

15. Motor vehicles (i) owned by members of a volunteer emergency medical services agency or a member of a volunteer fire department or (ii) leased by volunteer emergency medical services personnel or a member of a volunteer fire department if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member, or leased by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or a member of the volunteer fire department who regularly responds to calls or regularly performs other duties for the emergency medical services agency or fire department, and the motor vehicle owned or leased by the volunteer is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other

assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the volunteer, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

16. Motor vehicles (i) owned by auxiliary members of a volunteer emergency medical services agency or volunteer fire department or (ii) leased by auxiliary members of a volunteer emergency medical services agency or volunteer fire department if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or emergency medical services agency member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an auxiliary member of the volunteer emergency medical services agency or fire department who regularly performs duties for the emergency medical services agency or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision

15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior or handicapped citizens in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1500, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor

vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

21. Until the first to occur of June 30, 2019, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include any vehicle described in subdivision 38 or 40;

23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more used to transport property for hire by a motor carrier engaged in interstate commerce;

26. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 19, except for subdivision A 17, of § 58.1-3503;

27. Programmable computer equipment and peripherals employed in a trade or business;

28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational purposes only;

29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for recreational purposes only;

30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes only;

31. Tangible personal property used in the provision of Internet services. For purposes of this subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables users to access content, information, electronic mail, and the Internet as part of a package of services sold to customers;

32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor

vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve, volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

33. Forest harvesting and silvicultural activity equipment;

34. Equipment used primarily for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes of this section, biotechnology equipment means equipment directly used in activities associated with the science of living things;

35. Boats or watercraft weighing less than five tons, used for business purposes only;

36. Boats or watercraft weighing five tons or more, used for business purposes only;

37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity;

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576;

42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle;

43. Computer equipment and peripherals used in a data center. For purposes of this subdivision, "data center" means a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation,

transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services;

44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline; and

45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703.

46. Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.), merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.), or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.), and has an original cost of less than \$250. A county, city, or town may allow a taxpayer to provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subdivision, in lieu of a specific, itemized list.

B. The governing body of any county, city or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 46, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, 9, 21, and 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If an item of personal property is included in multiple classifications under subsection A, then the rate of tax shall be the lowest rate assigned to such classifications.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

HAMPTON CITY CODE SECTION

Sec. 2-50. - Required vote, etc., for appropriations, borrowing, etc.

No ordinance or resolution, having for its object an appropriation, not included in the budget, of more than ten million dollars (\$10,000,000.00), shall be passed by the council except by the concurrence of five (5) members of the council and after recommendation of the city manager. No ordinance or resolution appropriating money exceeding the sum of five million dollars (\$5,000,000.00) or imposing taxes shall be passed on the same day of its introduction, except that an appropriation may be made on the same day of its introduction by consent of five (5) members of the council.